



California Fair Political Practices Commission

January 28, 1986

William R. Galstan
City Attorney
City of Antioch
P.O. Box 130
Antioch, CA 94509

Re: Your Request for Advice
Our File No. A-86-029

Dear Mr. Galstan:

This is in response to your letter, dated January 13, 1986, seeking advice on behalf of Antioch City Councilmember Barbara Price. The material facts are as follows.

FACTS

Councilmember Barbara Price is employed as a paralegal. As such, Ms. Price performs services for various attorney employers in the development and management of case files.

QUESTIONS

Ms. Price wishes to know:

- (1) Whether a conflict of interest will exist if one of the law firms she works for represents a client in a civil case against the City?
- (2) Whether a conflict of interest will exist if one of the law firms she works for represents a client in a criminal case in which the client was arrested by the Antioch police?
- (3) If there is a conflict under either scenario, whether it is cured if Ms. Price avoids any contact with that particular file in the law office, or if she abstains from any consideration of the matter as a councilmember?

CONCLUSION

There is no conflict of interest merely because Ms. Price works for a law firm which represents a client who is suing the City or has been arrested by City police.^{1/} However, Ms. Price may not participate in any governmental decision which could affect any case on which she has done work or any case where the reasonably foreseeable financial effect of the decision on the law firm would be material.

ANALYSIS

The Political Reform Act ("the Act")^{2/} prohibits a public official from making, participating in making or in any way attempting to use his or her official position to influence a governmental decision in which he or she has a financial interest. Section 87100.

An official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the

^{1/} A different conclusion could result if Ms. Price were an attorney rather than a paralegal. See, 64 Ops. Cal. Atty. Gen. 282.

^{2/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made.

Section 87103(a)-(e).

Every law firm from which Ms. Price receives \$250 or more within a 12 month period would be considered a source of income to Ms. Price (Section 87103(c)). Accordingly, Ms. Price would be required to disqualify herself from participating in any governmental decision which could have a reasonably foreseeable material financial effect on the law firm. However, there is no per se conflict of interest solely because a law firm Ms. Price works for represents a client who was arrested by City police.

With respect to civil cases, if one of the law firms Ms. Price is working for is representing a client in a negligence action against the City and the City Council is considering whether to settle the suit or go to trial, Ms. Price would be required to disqualify herself from participating in that decision if the financial effect of that decision on the law firm would be material. The guidelines for materiality are set forth in 2 Cal. Adm. Code Section 18702.2 (copy enclosed).

If, however, Ms. Price was working on the case involving the client who was suing the City, then disqualification would be required whether or not the effect of the decision on the law firm would be material. This result is required by 2 Cal. Adm. Code Section 18702(b)(3)(B) which states a material financial effect will exist where:

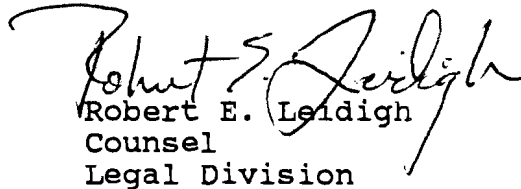
(B) There is a nexus between the governmental decision and the purpose for which the official receives income....

2 Cal. Adm. Code Section
18702(b)(3)(B).

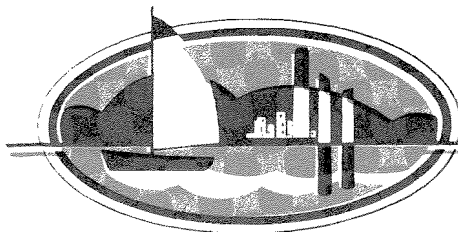
William R. Galstan
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As you can see, disqualification will depend on the particular facts of the situation. Therefore, please do not hesitate to contact us again should a situation arise where Ms. Price requires specific advice.

Sincerely,


Robert E. Leidigh
Counsel
Legal Division

REL:JG:plh
Enclosure



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WILLIAM R. GALSTAN
City Attorney

January 13, 1986

Fair Political Practices Commission
P.O. Box 807
Sacramento CA 95804

Re: Request for Opinion

Dear Sir or Madam:

Antioch City Council Member Barbara Price is a paralegal. As such, she performs responsible, para-professional services for her attorney employers in the development and management of case files. She receives wages based upon the number of hours worked.

A question has arisen whether the law firms for which she works may handle cases adverse to the City. This may take the form of civil actions to recover damages for personal injury, or defense of criminal cases in which the client was arrested by the Antioch police.

We would like your opinion on the following issues:

1. Is there a conflict of interest such that the law firm may not take civil cases against the City?

2. Is there a conflict of interest such that the law firm may not take criminal defense cases in which the client was arrested by Antioch police?

3. If there is a conflict under either scenario, is it cured if Mrs. Price avoids any contact with that particular file in the law office, or if she abstains from any consideration of the matter as a Council member, or both?

Your prompt response pursuant to Government Code Section 83114 will be very much appreciated.

Very truly yours,

WILLIAM R. GALSTAN
City Attorney

WRG/kw

cc: Barbara Price, Council Member



California Fair Political Practices Commission

January 16, 1986

William R. Galstan
Antioch City Attorney
P.O. Box 130
Antioch, CA 94590-0504

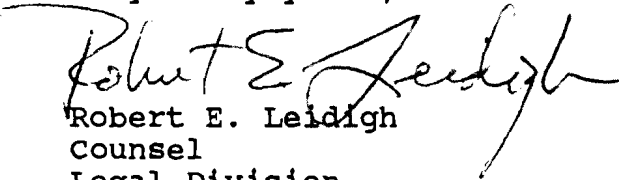
Re: 86-029

Dear Mr. Galstan:

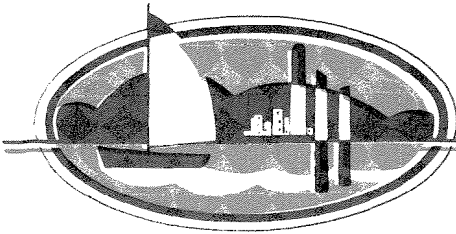
Your letter requesting advice under the Political Reform Act has been received by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or unless more information is needed to answer your request, you should expect a response within 21 working days.

Very truly yours,


Robert E. Leidigh
Counsel
Legal Division

REL:plh
cc: Barbara Price



WILLIAM R. GALSTAN
City Attorney

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January 16, 1986

Robert E. Leidigh
General Counsel, Legal Division
Fair Political Practices Commission
P.O. Box 807
Sacramento CA 95804

Re: Request for Opinion

Dear Mr. Leidigh:

Pursuant to the request of Jack Gould of your office, please be advised that I have been authorized by Councilmember Barbara Price to solicit the opinion requested in my letter of January 13, 1986.

Very truly yours,

William R. Galstan

WILLIAM R. GALSTAN
City Attorney

WRG/kw